

Remarks/Arguments

This paper is submitted responsive to the Office Action mailed June 18, 2007. Reconsideration of the application in light of the accompanying remarks and amendments is respectfully requested.

In the aforesaid action, the Examiner finally rejected claims 15-17 and 22 as anticipated by Tamura (JP 4327748), rejected claims 1-4, 7-8, 10 and 24-25 as obvious based upon Tamura and an ESI Engineering Publication Bush et al. (US 6397186), and rejected claims 5-6, 9 and 11-14 as obvious based upon Tamura, the ESI Publication, and Bush et al. (US 6,397,186).

By the present paper, reconsideration of this rejection is requested.

Starting with claim 1, it is respectfully submitted that the Examiner is not giving proper weight to the fact that claim 1 calls for positioning the control module outside a specific noise zone where noise from the component is greater than 60 db A. In order to reject a claim under 35 USC 103, as the Examiner has done, the Examiner must establish a prima facie case that all elements of the claim are taught by some combination of the art. The Examiner has relied upon Tamura in view of ESI in rejecting claim 1. A person of ordinary skill in the art reviewing Tamura would find no teaching whatsoever for positioning the a control module in any location with respect to the HVAC component. Further, ESI is drawn to noise control for HVAC equipment. Thus, the teachings in this document are drawn to ways of controlling noise, not adapting to it as is done by the present invention.

In finding claim 1 obvious, the Examiner correlates the specific and clear limitations of claim 1 with an

assumption that the components in Tamura are "far apart", and supports his initial assumption stating that "it is well known that the HVAC device is placed on the outside of the building". Respectfully, it is pointed out that in most cases where the user is provided with a remote control device, the unit in question is a window mounted unit, and will very frequently be in the same room and potentially very close to the typical location of the user.

This line of point and counterpoint, debating whether the components in Tamura are "far" or "near", could of course continue, primarily because the prior art itself is absolutely silent on this point. In the absence of any teaching in the prior art, the rejection is based upon mere speculation by the Examiner, which does not provide the basis for a sound rejection under 35 USC 103.

It is again pointed out that claim 1 calls for location of the control module outside of a specifically identified noise zone. Tamura is silent on the entire point, and ESI teaches nothing more than that machinery makes noise.

Reconsideration and favorable treatment of claim 1 are appropriate and respectfully requested.

Turning to independent claim 15, the Examiner has also missed a key point of this claim. Claim 15 calls for the system to have an indicator member for identifying a received speech command, and also for that indicator member to be a speech simulator. Thus, claim 15 calls for a system wherein a speech simulator generates an indicator that a command has been recognized. A fine but important distinction in Tamura is that Tamura teaches that a visual signal is given when a voice command is received. A proper rejection under 35 USC 102 requires that each and every

element of the claim be taught in the single prior art reference. In the present instance, this is clearly not the case. As set forth previously, a speech indicator that a command has been received is of value, for example to sight impaired users, and this subject matter is not at all disclosed or taught by Tamura. Reconsideration and favorable treatment of claim 15 is appropriate and respectfully requested.

Dependent claims 8 and 9 add the subject matter of claim 15 to claim 1, and thus these claims are allowable for both reasons set forth above.

Dependent claim 24 adds the subject matter of claim 1 to claim 15 and thus this claim is also allowable for both of the reasons set forth above.

Method claim 25 calls for the subject matter of claim 1 in method steps, and this subject matter is also clearly not at all taught by Tamura or any other art of record. Allowance of claim 25 is respectfully solicited.

Claim 15 has been carefully rewritten to include the subject matter of former dependent claim 21. Thus, claim 15 now calls for the device to include an indicator member which is a speech generator. The combination of Tamura and Bush et al. does not teach this. Claim 15 specifically calls for the control module to include the speech generator. This is particularly helpful in situations where the user might be sight impaired and therefore could not see any visual indicator acknowledging his instructions. Bush et al. makes reference to some device having the ability to generate speech. However, nothing in the art of record teaches how the asserted combination of this teaching with Tamura is to take place. It is submitted that there is no motivation to combine the

Appl. No. 10/082,874

Response Dated August 16, 2007

Reply to Office action of June 18, 2007

selected features of Tamura with Bush et al. as has been done by the Examiner, and therefore that claim 15 is allowable over the art of record.

Dependent claims 2-14 and 16-18 and 22-25 are all believed to be allowable based upon the remarks and amendments set forth herein, and further in their own right.

Reconsideration of the rejection and favorable treatment of the pending claims is therefore respectfully requested.

It is submitted that the claims as set forth herein patentably define over the art relied on by the Examiner and early allowance of same is courteously solicited.

Please charge fee not separately addressed, as well as any fee deficiency, to deposit account no. 02-0184.

Respectfully submitted,
Tomas Diez et al.

By /george a. coury/

George A. Coury
Attorney for Applicant
Tel 203-777-6628, x113
Fax 203-865-0297
E-mail: docket@bachlap.com

August 16, 2007